

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2010 MAY 20 PM 6:10

BOBBIE ACHENBACH,

Plaintiff,

v.

NANAK HOTEL GROUP, LLC

Defendant.

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DEPUTY CLERK

5:10-CV-121

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, BOBBIE ACHENBACH, by her attorneys, LOEVY & LOEVY,
complains of Defendant, NANOOK HOTEL GROUP, as follows:

Introduction

1. This action is brought under Title VII of the Civil Rights Act to redress sexual harassment and gender discrimination inflicted on Plaintiff by her employer, Nanak Hotel Group, LLC aka Nanook Hotel Group, LLC (hereafter "Nanak Hotel Group.")

2. Nanak Hotel Group employed Ms. Achenbach when she was subjected to a hostile and offensive work environment as a result of the sexual conduct of one or more of her male co-workers. When she complained to her employer about the harassment, her employment was terminated as a result of the sexual harassment complaint.

Jurisdiction and Venue

3. Jurisdiction is proper under 28 U.S.C. 1331 and 28 U.S.C. 1343 in that this action is brought to secure protection and to redress deprivation of rights arising under Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 200e *et seq.*).

4. All condition precedent to jurisdiction have been complied with for the purposes

of this Complaint, as follows:

- a. A charge of employment discrimination was filed with the Equal Employment Opportunity Commission ("EEOC") within three hundred days of the commission of the last of the continuing violations.
- b. On March 18, 2010, a right to sue letter was issued by the EEOC.
- c. Plaintiff's complaint is filed within ninety days of the EEOC's issuance of the notice of right to sue.

5. Venue is proper under 28 U.S.C. § 1391(b). Plaintiff resides in this judicial district, and the events giving rise to the claims asserted herein occurred within this district.

Parties

6. Plaintiff, Ms. Achenbach, was employed as a housekeeper at the hotel known as the Quality Inn in Brattleboro.

7. Defendant, Nanak Hotel Group is a Vermont limited liability company that operated the hotels known as the Quality Inn in Brattleboro and the Hampton Inn in Brattleboro.

Background

8. From October 24, 2007 until December 28, 2007, Ms. Achenbach was employed as a housekeeper at the Quality Inn Hotel in Brattleboro. Ms. Achenbach was qualified for her duties and her performance was satisfactory.

9. On or about December 7, 2007, a male co-worker began spreading false rumors of a sexual nature about her. She complained to the housekeeping supervisor. After the supervisor asked the male co-worker if the rumor was true, and he replied that it was, the supervisor repeatedly told Ms. Achenbach: "you know you did it."

10. Ms. Achenbach then complained to her manager.

11. Two days later, a second male co-worker told Ms. Achenbach that he wanted to have sexual relations with her. He continued to repeat this and other sexual comments.

12. One week after Ms. Achenbach's initial complaint, while helping the second male co-worker clean a room, the co-worker exposed his penis to Ms. Achenbach, invited her to touch it, and made other lewd comments. Ms. Achenbach immediately left the room.

13. One or two days later, Ms. Achenbach informed a housekeeping supervisor about the incident with the second male co-worker and asked to be transferred away from him. Ms. Achenbach also asked to speak with the general manager of Nanak Hotel Group.

14. In the weeks following Ms. Achenbach's complaint, her working hours were reduced. She usually worked five days, with two days off. After her complaints, her hours were reduced and she was assigned to work only three days, with four days off.

15. On December 18, 2007, Ms. Achenbach spoke with the general manager and gave him a letter detailing the sexual harassment, the complaints she had made about it, and the reduction of her working hours.

16. On December 28, 2007, Ms. Achenbach came to work and noticed that her name had been completely crossed off the work schedule. Her supervisor told her that she was terminated because management did not want to deal with her sexual harassment complaint. When Ms. Achenbach attempted to talk with the general manager about his decision, he refused to talk about it.

17. Since her termination of employment with the Nanak Hotel Group, Ms. Achenbach has had difficulty securing other employment, due at least in part to her dismissal from the hotel and the hotel supervisors' unwillingness to cooperate with Ms. Achenbach's

potential employers.

18. Ms. Achenbach has also suffered a loss of reputation due to the incident, and is afraid to leave her house.

Count I – Title VII

Sex Discrimination

19. Plaintiff alleges and incorporates each paragraph of this Complaint as if fully restated herein.

20. Title VII prohibits discrimination on the basis of sex, including, *inter alia*, sexual harassment.

21. As described more fully above, the Nanak Hotel Group engaged in an unlawful workplace practice of sexual harassment.

22. Plaintiff was subjected to pervasive harassment and a hostile work environment that was motivated by Plaintiff's gender.

23. As a result of the Defendant's discriminatory actions set forth above, Plaintiff has suffered, and continues to suffer, injuries including but not limited to emotional distress.

Count II – State Law Claim

Intentional Infliction of Emotional Distress

24. Plaintiff realleges and incorporates each paragraph of this Complaint as if fully restated herein.

25. As described more fully in the preceding paragraphs, employees of the Nanak Hotel Group engaged in extreme and outrageous conduct with respect to Plaintiff.

26. In committing the acts alleged in the preceding paragraphs, each of the

wrongdoers were agents of the Nanak Hotel Group, acting at all relevant times within the scope of their employment.

27. The Nanak Hotel Group is a principal liable for all torts committed by its agents.

28. This misconduct described in this Count was rooted in an abuse of power or authority.

29. The misconduct described in this Count was undertaken with intent or reckless disregard that there was a probability of resulting emotional distress to the plaintiff.

30. The misconduct described in this Count was so outrageous as to surpass all possible bounds of decency, and is regarded as atrocious and utterly intolerable in a civilized society.

31. As a result of this misconduct, Plaintiff suffered extreme emotional distress.

Count III – State Law Claim

Fair Employment Practices Act

32. Plaintiff realleges and incorporates all paragraphs of this Complaint as if fully stated herein.

33. The Vermont Fair Employment Practices Act (“FEPA”) prohibits gender based discrimination, including sexual harassment in the workplace. 21 V.S.A. §§495(a), *et seq.*

34. As described more fully above, the Nanak Hotel Group has engaged in unlawful sex discrimination in violation of the FEPA.

WHEREFORE, Plaintiff, BOBBIE ACHENBACH, respectfully requests that this court enter judgment in her favor and against Defendant, NANAK HOTEL GROUP, awarding compensatory and punitive damages and attorneys’ fees, as well as any other relief this Court deems just and appropriate.

JURY DEMAND

Plaintiff, BOBBIE ACHENBACH, hereby demands a trial by jury under Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED,



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